

RESOLUTION NO. 08-7572

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA, GIVING NOTICE OF THE INTENTION OF THE CITY OF SANTA CLARA TO GRANT OR RENEW EIGHT NON-EXCLUSIVE FRANCHISES FOR THE HAULING OF INDUSTRIAL REFUSE AND RECYCLABLE MATERIAL IN THE CITY OF SANTA CLARA PURSUANT TO THE PROVISIONS OF CHAPTER 8.25 ("ACCUMULATION, TRANSPORTATION AND DISPOSAL OF WASTE MATTER") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA"

BE IT RESOLVED BY THE CITY OF SANTA CLARA, CALIFORNIA, AS FOLLOWS:

WHEREAS, the eight (8) industrial refuse haulers ("Applicants") identified below have requested that the City of Santa Clara, pursuant to §8.25.210 of "The Code of the City of Santa Clara, California" ("City Code"), as authorized by §1400 of Article XIV (entitled "Franchises"), of the Charter of the City of Santa Clara, issue/renew franchises for the collection and disposition of refuse and recyclable material from the City; and;

WHEREAS, the ability of the Applicants to carry out the service proposed to be provided, their financial and business standing, experience, the compensation paid to the City, and other pertinent factors will be evaluated by the City Council at a public hearing, held pursuant to Chapter 8.25 (of the City Code entitled "Accumulation, Transportation and Disposal of Waste Matter" on December 2, 2008);

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA, CALIFORNIA, AS FOLLOWS:

1. The City Council intends to hold a public hearing and, after completion of deliberation, may grant said respective franchises; and,
2. Pursuant to §8.25.240 of the City Code, a hearing will be held on the franchise applications at the time and place specified in the notice set forth below. The City Clerk of the City of Santa Clara ("City") is hereby directed to publish the notice at least once within fifteen (15) days after passage of this Resolution in the Santa Clara Weekly, a newspaper of general circulation within the City, in substantially the following form:

**CITY OF SANTA CLARA
NOTICE OF PUBLIC HEARING**

**NOTICE OF PUBLIC HEARING REGARDING THE GRANTING OF
NON-EXCLUSIVE FRANCHISES TO HAUL INDUSTRIAL REFUSE
AND RECYCLABLE MATERIAL IN THE CITY OF SANTA CLARA**

NOTICE IS HEREBY GIVEN that the City Council of the City of Santa Clara has set its regularly scheduled meeting on Tuesday, December 2, 2008 at 7:00 p.m. or as soon thereafter as the matter may be heard, in the City Hall Council Chambers (East Wing of City Hall), 1500 Warburton Avenue, Santa Clara, California, as the date, time and location to conduct a public hearing on whether or not to grant non-exclusive franchise(s) for the collection and disposition of refuse and recyclable material in the City of Santa Clara. If granted, the franchise term will be to December 31, 2011.

The purpose of the public hearing is to provide City staff with an opportunity to present information to the City Council and to the public about the respective requests for non-exclusive franchises, company performance and recommendations for Council consideration. The public is invited to submit written comments [in support of or objecting to the grant of a franchise(s)] prior to hearing (submitted to the City Clerk by noon, Wednesday, November 26, 2008) or make oral presentations at the public meeting

A copy of the standard non-exclusive franchise agreement will be made available for public inspection in the City Clerk's Office, City Hall, 1500 Warburton Avenue, Santa Clara, California.

The seven Applicants are:

- | | |
|-------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1. Allied Waste Services of North America, LLC
1601 Dixon Landing Road
Milpitas, CA 95035 | 2. Green Waste Recovery, Inc.
625 Charles Street
San Jose, CA 95112 |
| 3. Mission Trail Waste Systems
1060 Richard Avenue
Santa Clara, CA 95050 | 4. Pacific Coast Recycling, Inc.
5895 Obata Way
Gilroy, CA 95020-7061 |
| 5. California Waste Solutions
1005 Timothy Drive
San Jose, CA 95133 | 6. Qualified Trucking, Inc.
270 Sunol Street
San Jose, CA 95126 |
| 7. Los Altos Garbage Company
dba Stevens Creek Disposal
& Recycling
650 Martin Avenue
Santa Clara, CA 95050 | 8. Jonna Corporation
dba Premier Recycle
348 Phelan Avenue
San Jose, CA 95112 |

Rod Diridon, Jr., City Clerk
City of Santa Clara

3. Notice is hereby given that the above identified eight (8) refuse hauler Applicants have filed requests with the City Council of the City of Santa Clara requesting said Council grant them franchises to render certain refuse collection services, and recycling services to businesses located in the industrial zoned areas in the City of Santa Clara ("City") and permission to use the public streets and places within the City for transporting and disposing of refuse and recyclable material for any and all purposes, or as modified by the City Council of the City.

4. If a franchise is granted, franchise fees to be paid to the City by the franchisee fall into three categories which reflect the success of the franchisee's operation in diverting refuse from land fills. The franchise fees shall be as follows:

- a. Sixteen percent (16%) of the total gross billings for (a) refuse that is not processed through a material recovery facility ("MRF") that diverts from land fills at least thirty percent (30%) of the material delivered, or (b) purported source separated recyclable

containers that are determined to have contamination levels (i.e. contain non-recyclable material such as what is commonly referred to as garbage) of greater than five percent (5%);

b. Ten percent (10%) of the gross billings for the refuse that is taken to a MRF that diverts at least thirty percent (30%) of the material delivered; and,

c. Three percent (3%) of the total gross billings for containers of source separated recyclables with a contamination rate of less than five percent (5%).

Payment of franchise fees shall be made at the conclusion of each calendar quarter, or portion thereof, from the date of the granting of the franchise, and, in the event such payment shall not be made, said franchise shall be forfeited. Said City Council proposes to grant said franchise(s) for a term to December 31, 2011.

5. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 28TH DAY OF OCTOBER, 2008, BY THE FOLLOWING VOTE:

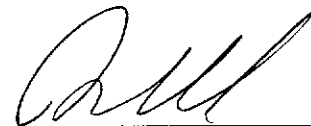
AYES: COUNCILORS: Caserta, Kennedy, Kolstad, Kornder, McLeod and Moore and Mayor Mahan

NOES: COUNCILORS: None

ABSENT: COUNCILORS: None

ABSTAINED: COUNCILORS: None

ATTEST:



ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA